

REMARKS

I. Status of the claims

Claims 1, 3, 4, 6, and 13 are pending. Claims 14 and 15 have been cancelled. Claim 1 and the title of the invention have been amended to comply with the claim objections noted by the examiner. No new matter has been introduced through these amendments.

Because the claim has only been amended to comply with a claim objection, the amendment does not necessitate a new search. As such, entry of these amendments is respectfully requested.

II. Specification objections

The examiner has objected to the title as not descriptive of the invention. Applicants have amended the title as suggested by the examiner.

III. Claim objections

The examiner has objected to claim 1 as drawn to compounds outside the elected group. The examiner suggests limiting claim 1 to quinazolines by limiting X1, X2, X3, and X4 to carbon only and to remove the term “absent” from claim 1. To comply with this objection and expedite prosecution, Applicants have amended claim 1 in accordance with the examiner’s suggestions.

IV. Rejection of claims 1, 3, 4, 6, and 13-15 under 35 U.S.C. § 102(e)

The examiner has rejected claims 1, 3, 4, 6, and 13-15 under 35 U.S.C. § 102(e) as being anticipated by PCT Application WO 03/051849 (equivalent of U.S. Patent No. 7,232,903) to Nishino (“Nishino”). The above-noted PCT Applicant and U.S. Patent are related to Japanese Application No. JP 2003-212862, cited by the examiner in the previous Office Action.

According to the examiner, the Nishino reference is prior art under 35 U.S.C. § 102(e). Applicants respectfully disagree. PCT Application WO 03/051849 was published on June 26, 2003, but only in Japanese. Hence, the publication date of the PCT application does not qualify under 35 U.S.C. § 102(e)(2), which requires that the publication be in English. The correct § 102(e) date is the § 371 (c)(1) date, i.e. June 18, 2004. However, this date does not antedate

Applicants' effective U.S. filing date, which is also June 18, 2004. Therefore, Nishino does not qualify as prior art under 35 U.S.C. § 102(e).

The publication of PCT Application WO 03/051849 on June 26, 2003 is less than a year prior to Applicants' effective U.S. filing date of June 18, 2004. Therefore, Nishino does not qualify as prior art under 35 U.S.C. § 102(b).

While publication of PCT Application WO 03/051849 on June 26, 2003 qualifies as prior art under 35 U.S.C. § 102(a), Applicants are able to antedate this through the priority claim. As set forth in the previous response, priority is claimed under five priority documents, among them JP 2003-172873, filed June 18, 2003, and JP 2003-179077, filed June 24, 2003. JP 2003-172873 provides support for independent claim 14, and JP 2003-179077 provides support for independent claim 1. Both of these priority document antedate the publication date of the Nishino PCT Application.

In the Office Action, the examiner recognizes Applicants' priority claim, but states that Applicants cannot rely upon the foreign priority papers because a translation of the papers has not been made of record in accordance with 37 C.F.R. § 1.55. See page 5 of the Office Action. Applicants direct the examiner's attention to the Supplemental Response filed on August 18, 2008, which provided the Office with certified translations of the two priority documents discussed above. Accordingly, Applicants have satisfied the requirement set forth in § 1.55. Once the priority document have been taken into consideration, it is clear that Nishino does not qualify as prior art under 35 U.S.C. § 102(a).

In sum, the Nishino reference, as a published Japanese application, a published PCT application, or an issued U.S. Patent, fails to qualify as prior art to this application under any section of the 35 U.S.C. § 102. Applicants therefore respectfully request that the examiner withdraw this rejection.

V. Conclusion

Applicants request reconsideration of this application in view of the remarks set forth above, and allowance of this application.

**Except** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required,

including any required extension of time fees, or credit any overpayment to Deposit Account No. 19-2380. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. §1.136(a)(3).

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Respectfully submitted,

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